

COURT EXHIBIT

2

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

**JACQUELINE SUAREZ,**

Plaintiff,

v.

**BIG APPLE CAR, INC. and DIANE  
CLEMENTE,**

Defendants.

**VERDICT SHEET**

15-CV-5330 (AMD) (RLM)

Ann M. Donnelly, United States District Judge:

1. Have the defendants proved by a preponderance of the evidence that the plaintiff is exempt from the Fair Labor Standards Act and New York Labor Law throughout her entire employment, either because she was an executive employee or an administrative employee?

Yes X No \_\_\_\_\_

IF YOU ANSWERED "YES" TO QUESTION 1, PLEASE STOP, GO TO THE FINAL PAGE, AND SIGN

IF YOU ANSWERED "NO" TO QUESTION 1, PLEASE PROCEED TO QUESTION 2

2. Executive Employee Exemption

- A. Have the defendants proved by a preponderance of the evidence that the plaintiff was an executive employee during the time she was employed as a Driver Recruiter?

Yes \_\_\_\_\_ No \_\_\_\_\_

- B. Have the defendants proved by a preponderance of the evidence that the plaintiff was an executive employee during the time she was employed as a Dispatch Manager?

Yes \_\_\_\_\_ No \_\_\_\_\_

- C. Have the defendants proved by a preponderance of the evidence that the plaintiff was an executive employee during the time she was employed as a Director of Driver's Services?

Yes \_\_\_\_\_ No \_\_\_\_\_

IF YOU ANSWERED "YES" TO QUESTIONS 2A, 2B, AND 2C, PLEASE STOP, GO TO THE FINAL PAGE, AND SIGN

IF YOU ANSWERED "NO" TO QUESTIONS 2A, 2B, OR 2C, PLEASE PROCEED TO QUESTION 3

3. Administrative Employee Exemption

- A. Have the defendants proved by a preponderance of the evidence that the plaintiff was an administrative employee during the time she was employed as a Driver Recruiter?

Yes \_\_\_\_\_ No \_\_\_\_\_

- B. Have the defendants proved by a preponderance of the evidence that the plaintiff was an administrative employee during the time she was employed as a Dispatch Manager?

Yes \_\_\_\_\_ No \_\_\_\_\_

- C. Have the defendants proved by a preponderance of the evidence that the plaintiff was an administrative employee during the time she was employed as a Director of Driver's Services?

Yes \_\_\_\_\_ No \_\_\_\_\_

IF YOU ANSWERED "YES" TO QUESTIONS 3A, 3B, AND 3C, PLEASE STOP, GO TO THE LAST PAGE, AND SIGN

IF YOU ANSWERED "NO" TO QUESTION 3A, 3B, OR 3C, PLEASE PROCEED TO QUESTION 4

4. Has the plaintiff, Jacqueline Suarez, proved by a preponderance of the evidence that she worked overtime for the defendants, Big Apple Car, Inc., and Diane Clemente?

Yes \_\_\_\_\_ No \_\_\_\_\_

IF YOU ANSWERED "YES" TO QUESTIONS 4, PLEASE PROCEED TO QUESTION 5

IF YOU ANSWERED "NO" TO QUESTION 4, PLEASE DO NOT CONSIDER QUESTIONS 5, 6, ND 7, AND PROCEED TO QUESTION 8

5. Has the plaintiff, Jacqueline Suarez, proved by a preponderance of the evidence that the defendants knew or should have known that the plaintiff was working in excess of 40 hours in a week?

Yes \_\_\_\_\_ No \_\_\_\_\_

IF YOU ANSWERED "YES" TO QUESTIONS 4 AND 5, PLEASE PROCEED TO QUESTION 6

IF YOU ANSWERED "NO" TO QUESTION 4 OR 5, PLEASE DO NOT CONSIDER QUESTIONS 6 AND 7, AND PROCEED TO QUESTION 8

6. Was any of the overtime work performed by the plaintiff *de minimis*?

Yes \_\_\_\_\_ No \_\_\_\_\_

IF YOU ANSWERED "YES" TO QUESTION 6, PLEASE PROCEED TO QUESTION 6A

IF YOU ANSWERED "NO" TO QUESTION 6, PLEASE DO NOT CONSIDER QUESTION 6A, AND  
PROCEED TO QUESTION 7

A. What amount of time that the plaintiff worked overtime was *de minimis*?

Number of minutes: \_\_\_\_\_

PLEASE PROCEED TO QUESTION 7

7. Number of hours of uncompensated overtime:

- A. How many hours of uncompensated overtime in a workweek did the plaintiff prove by a preponderance of the evidence that she worked during the time she was employed as Driver Recruiter?

Number of hours: \_\_\_\_\_

- B. How many hours of uncompensated overtime in a workweek did the plaintiff prove by a preponderance of the evidence that she worked during the time she was employed as Dispatch Manager?

Number of hours: \_\_\_\_\_

- C. How many hours of uncompensated overtime in a workweek did the plaintiff prove by a preponderance of the evidence that she worked during the time she was employed as Director of Driver's Services?

Number of hours: \_\_\_\_\_

PLEASE PROCEED TO QUESTION 8

Wage Statements

8. Have the defendants proved that they believed in good faith that they were not required to provide the plaintiff with wage statements?

Yes \_\_\_\_\_ No \_\_\_\_\_

PLEASE PROCEED TO THE LAST PAGE AND SIGN

*You have reached a verdict. The Court and the parties thank you for your service. Please have the foreperson sign and date the verdict form, then notify the Court by note that you have reached a verdict.*



Foreperson: Evan Dunn  
(print name under signature)

4/13/18

Date